

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

Bank of America, N.A.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:09cv391 (GBL)
)	
AC Technology, Inc., et al.,)	
)	
Defendants.)	

ORDER

THIS MATTER is before the Court on Plaintiff's Motion for Summary Judgment (Dkt. No. 33), Defendants' Cross Motion for Discovery under Federal Rule of Civil Procedure 56(f) (Dkt. No. 39), and Defendants' Motion to Dismiss, or in the Alternative, to Stay Proceedings Pending Arbitration (Dkt. No. 42). For the reasons stated in open court on Friday, September 11, 2009, it is hereby

ORDERED that Defendants' Motion to Dismiss, or in the Alternative, to Stay Proceedings Pending Arbitration (Dkt. No. 42) is GRANTED because Defendants did not waive their right to arbitrate and because Plaintiff failed to show actual prejudice. The Court dismisses the case. It is further

ORDERED that Plaintiff's Motion for Summary Judgment (Dkt. No. 33) is DENIED as MOOT. It is further

ORDERED that Defendants' Cross Motion for Discovery under Federal Rule of Civil Procedure 56(f) (Dkt. No. 39) is DENIED as MOOT.

The Clerk is directed to forward a copy of this Order to counsel.

Entered this 15th day of September, 2009.

Alexandria, Virginia

09/ 15 /09

/s/
Gerald Bruce Lee
United States District Judge